

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:	§	
	§	
RIC (LAVERNIA) LLC,	§	Case No. 24-51195-mmp
	§	
Debtor	§	Chapter 11
	§	
<hr style="border: 0.5px solid black;"/>		
	§	
OTISCO RDX, LLC,	§	
	§	
Plaintiff	§	Adversary No. 25-05040-mmp
	§	
v.	§	
	§	
RIC (LAVERNIA) LLC, AND	§	
TIG ROMSPEN US MASTER	§	
MORTGAGE LP,	§	
	§	
Defendants.	§	

**DEFENDANTS’ RESPONSE IN OPPOSITION TO
PLAINTIFF’S MOTION FOR CONTINUANCE**

Defendants RIC (Lavernia) LLC (the “Debtor”) and TIG Romspen US Master Mortgage LP (“TIG Romspen,” and together with the Debtor, the “Defendants”) object to the *Motion for Continuance* (the “Continuance Motion”) [ECF No. 42], and in support state as follows:

1. Plaintiff’s request for a continuance is yet another attempt to delay resolution of matters that have already been fully briefed, argued, and ruled upon.

2. On June 2, 2025, the Court entered an order dismissing Plaintiff’s Complaint with prejudice following a hearing at which Plaintiff was represented by counsel and afforded the opportunity to be heard. *See* ECF No. 15.

3. The Court's reason for dismissing Plaintiff's Complaint was simple: the sole factual basis underlying the Complaint (that TIG Romspen did not complete the foreclosure sale through a duly appointed substitute trustee) was demonstrably false according to the public records of Wilson County, Texas.

4. Because Defendants were forced to incur unnecessary legal fees and expenses responding to Plaintiff's frivolous Complaint, Defendants moved for sanctions and an award of attorneys' fees against Plaintiff and its attorneys on June 17, 2025. See ECF No. 20 (the "Sanctions Motion").

5. Also on June 17, 2025, Plaintiff filed *Plaintiff's Motion to Reconsider Order Granting Defendants' Motion to Dismiss or, in the Alternative, Motion for Summary Judgment* (the "Motion to Reconsider"). See ECF No. 19. In support of the Motion to Consider, Plaintiff offered only one justification: the tragic death of Mr. Kell Mercer, an attorney who has never appeared as counsel for OTISCO but who allegedly was working behind the scenes on OTISCO's behalf. The Motion to Reconsider asserted zero additional facts that would support OTISCO's Complaint.

6. On July 1, 2025, Plaintiff's counsel of record—Justin Rayome—filed on behalf of Plaintiff a *Motion for Voluntary Dismissal of Adversary Proceeding and Notice of Withdrawal of Filing* (the "Voluntary Dismissal Motion") [ECF No. 29]. Plaintiff now alleges Mr. Rayome lacked authority to do so. See Continuance Mot. ¶

6. Plaintiff subsequently withdrew its Voluntary Dismissal Motion. See ECF Nos.

38, 39. Instead of seeking voluntary dismissal of its already-dismissed Complaint, Plaintiff apparently now wishes to proceed with its Motion to Reconsider.¹

7. On July 21, 2025—mere days before the hearing scheduled on Plaintiff's Motion to Reconsider and Defendants' Sanctions Motion—Plaintiff filed its Continuance Motion. The Continuance Motion improperly attempts to introduce facts that were: (i) not raised in the Complaint; (ii) not presented at the June 2 hearing on Defendants' motion to dismiss or, alternatively, for summary judgment; and/or (iii) not asserted in the Motion to Reconsider.

8. A motion to continue is not a vehicle for asserting new claims or new evidence that could have, and should have, been raised earlier. Plaintiff's attempt to reframe the basis of its lawsuit post-dismissal is a transparent effort to avoid the consequences of its own unsuccessful litigation strategy.

9. Plaintiff advances no viable reasons for continuing the hearing scheduled for July 23, 2025. Accordingly, further delays are unwarranted.

CONCLUSION

Plaintiff's Continuance Motion is a last-ditch effort to delay the consequences of a meritless litigation strategy. The Court has already ruled on the merits of the Complaint. The evidentiary record is closed. Plaintiff's attempt to introduce new

¹ At 6:36 pm on July 21, 2025—less than 39 hours before the scheduled July 23 hearing—Plaintiff filed an “amended” motion to reconsider, which added additional information plus new relief (leave to amend the Complaint). ECF No. 44. No leave was requested or granted to amend the Motion to Reconsider; the additional information is not “new” information to support reconsideration; and the additional relief requested is untimely.

evidence and theories at this stage is improper and prejudicial. The Court should therefore deny the Continuance Motion and proceed with the currently-scheduled hearing on Plaintiff's Motion to Reconsider (as originally filed) and Defendants' Sanctions Motion.

Dated: July 22, 2025

Respectfully submitted,

BRYAN CAVE LEIGHTON PAISNER LLP

/s/ Kyle S. Hirsch

Kyle S. Hirsch (Tex. Bar No. 24117262)

Justin D. Hanna (Tex. Bar No. 24095726)

R. Luke Graham (Tex. Bar No. 24127305)

Dallas Arts Tower

2200 Ross Avenue, Suite 4200W

Dallas, Texas 75201

Telephone: (214) 721-8000

Facsimile: (214) 721-8100

Email: kyle.hirsch@bclplaw.com

justin.hanna@bclplaw.com

luke.graham@bclplaw.com

Brigid K. Ndege (*Pro Hac Vice*)

161 North Clark Street, Suite 4300

Chicago, Illinois 60601-3315

Telephone: 312.602.5104

Email: brigid.ndege@bclplaw.com

Counsel for the Defendants

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2025, I caused a true and correct copy of the foregoing to be served on all parties entitled to service in this adversary proceeding via the Court's electronic transmission facilities, including:

Steven G. Cennamo on behalf of Plaintiff Otisco RDX, LLC

scennamo@cennamowernerlaw.com,

dwner@cennamowernerlaw.com; lawofficeofcennamowerner@jubileebk.net

Stephen Kirklin on behalf of Attorney Paul Kirklin

skirklin312@gmail.com

Kiernan McAlpine on behalf of Plaintiff Otisco RDX, LLC

kier@mcaldpinelaw.com

Justin Rayome on behalf of Plaintiff Otisco RDX, LLC

justin.rayome.law@gmail.com

Ronald J Smeberg on behalf of Plaintiff Otisco RDX, LLC

ron@smeberg.com, ronaldsmeberg@yahoo.com; denielle@smeberg.com

United States Trustee - SA12

USTPRegion07.SN.ECF@usdoj.gov

/s/ Kyle S. Hirsch

Kyle S. Hirsch